

# City of Seal Beach



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March 28, 1995

Federal Communications Commission  
Attn: Chairman Reed Hundt  
1919 M Street, N.W.  
Washington, D.C. 20036

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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**SUBJECT: PROPOSED FEDERAL PREEMPTION OF LOCAL  
CONTROL OF SITING AND RELOCATING CELLULAR  
COMMUNICATION TOWERS - RM 8577**

Dear Mr. Hundt:

The City of Seal Beach has received information from the California Public Utilities Commission regarding the above-referenced proposed Rule Making. The City of Seal Beach understands that the proposed Rule Making would ". . . *preempt state and local governments from enforcing zoning and other similar regulations which have the purpose or effect of barring or impeding commercial mobile radio service providers from locating and constructing new towers.*" The City of Seal Beach would like to express strong opposition for this proposed federal rule making.

Aside from the obvious concern regarding the complete loss of local control of land use decision-making authority, the City is apprehensive about this proposed rule making as it relates to the inability to work with the many different CMRS service providers to insure that local concerns are dealt with in a reasonable and forthright manner, at the level of the appropriate local government decision-making body. Our community currently requires a "conditional use permit" (CUP) for such uses. Once an application is complete, it requires about 35-50 days to process an application for a CUP to the point of a public hearing before our Planning Commission. If the determination of the Planning Commission is not appealed, a permit to construct can be issued within ten (10) days of the Planning Commission determination. If an appeal is filed, which must be filed within ten (10) days of the Planning Commission determination, the City Council must hold a public hearing within forty (40) days and must make its determinations within forty (40) days of the conclusion of its public hearing.

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This local review process provides both the proposed CMRS service provider, the local community, and city staff the ability to review a particular proposal in an efficient and timely manner to address site specific concerns which may arise at the proposed location. This process has been utilized in our community and has worked very well up to this point in time.

The City of Seal Beach understands the frustration which CMRS service providers may experience in dealing with different local jurisdictions in the permitting process. However, it is incumbent upon the Federal Communications Commission to understand that local governments must be able to respond effectively to local concerns, and that is most obviously not possible if federal preemption does take place. This is particularly the case when many different CMRS service providers wish to locate towers within a particular community, and the design and proposed location of those facilities is not compatible with surrounding land uses.

We would request your thorough consideration of this matter, and in particular the impacts of federal preemption on local governments throughout the nation. The balance of appropriate land use review mechanisms with the needs of CMRS service providers should be carefully considered and deliberated by the Commission prior to making any decision. It is our strong recommendation that a process which allows local governmental review of proposed wireless communication towers should be retained.

If you have any questions or concerns regarding this matter, please contact Mr. Lee Whittenberg, Director of Development Services, telephone 310-431-2527, at your convenience. He will be most anxious to provide any clarification.

Sincerely,

  
George E. Brown  
Mayor

**Distribution:**

Members of the Federal Communications Commission  
Congressman Dana Rohrbacher

Seal Beach City Council  
Seal Beach City Manager  
Seal Beach Environmental Quality Control Board